IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.6690 OPF 2004

Vasant Gangram Pandit Petitioner

versus

Imtiaz Abdulsattar Khanapuri
and others Respondents

Mr.Ramrao Adik, Sr.Counsel with M.N.Morje, adv. for petitioner.

Mr.A.K.Abhyankar with Asha M. Bhambwani, adv. for respondents 1 to 8.

CORAM : A.M.KHANWILKAR, J.
DATE : 30th August 2004

PC :

1. Heard learned counsel for parties. I find no reason to interfere with the concurrent view taken by two Courts below at this interlocutory stage. In fact, the interim injunction granted by the Trial Court is the reiteration of the obligation to be performed by the petitioner to construct C and D Wings of building in conformity with the sanctioned plan. The order reads thus:-

"The application is allowed.

The defendant is hereby temporarily restrained from raising construction of the suit building without leaving stilt area in 'C' and 'D' wings of the building and without leaving the road for the vehicles for having access to the stilt and in violation of the construction permission granted by the planning authority and Sawantwadi Municipality pending the final decision of the suit."

2. The appellate authority indeed has given certain reasons for dismissing the appeal, but for the nature of order that has been passed by the Trial Court, at this interlocutory stage, no interference in the writ jurisdiction is warranted, especially when it is well settled that any modification of the sanctioned plan will have to be done with the express consent of purchasers.

3. Learned counsel for petitioner relies on 2002(4)-Mh.L.J.-889 (Chandrakant Shankar Sapkal

and another Vs. Anil Balbhim Khatavkar) to contend that merely because two Courts have taken a concurrent view, that does not preclude High Court from exercising powers under writ jurisdiction. Indeed the principle canvassed cannot be disputed but in the fact situation of the present case no fault can be found with the approach of the Courts below in granting interim relief for the reasons already recorded. Hence dismissed.

4. At this stage learned counsel for petitioner prays that at least the suit pending before the Trial Court be expedited. If any such application is filed before the Trial Court, the Trial Court may consider the same and pass appropriate orders.

(A.M.KHANWILKAR, J.)